HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

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Writ Petition No.13865 of 2005

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Dated: 2nd September, 2005

Between:

Smt. G.Nagamani, W/o.E.Vijaya Kuamr, R/o.2-140,

Mallelamadugu, Mondikunta, Ashwapuram Mandal,

Khammam District.

..... PETITIONER

AND

1.The Chairman and Managing Director, Indian oil Corporation

Limited, New Delhi and three others.

.....RESPONDENTS

HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

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ORDER:

This writ petition has been filed by Smt.G.Nagamani with a prayer to issue a Writ, Order or direction, more particularly a writ of Mandamus declaring the action of the respondents in not selecting her for the dealership of Kisan Seva Kendra (KSK) at Mondikunta, Ashwapuram Mandal, Khammam District, as illegal, arbitrary and unconstitutional.

2. The petitioner belongs to Scheduled Caste category. She filed an application for

Kisan Seva Kendra (KSK) dealership at Mondikunta, Ashwapuram Mandal, Khammam District. It is her grievance that though she secured required marks, the respondents have not found her eligible for allotment of dealership under Kisan Seva Kendra.

3. The respondents 1 to 3 filed a counter affidavit. It is stated in the counter affidavit that the petitioner secured less than the minimum qualifying marks and therefore, she could not be considered for awarding dealership. Para. 4 of the counter affidavit needs to be noted and it is thus:

> " 4) As per policy, Scheduled Caste candidates are provided certain exemptions/facilities with respect to infrastructure and capital. The concerned Oil Corporation would provide the site for housing the Dealership as well as fulfill the working capital requirement, if sought, in respect of Dealerships awarded under Scheduled Caste category. Accordingly, the total qualifying marks for Scheduled Caste Dealerships is reduced to 65 as the parameters/heads of assessments pertaining to these two aspects are not applicable in such cases. The minimum qualifying marks to be attained by the candidate to be held eligible for consideration for award of the Dealership is 50% in respect of Scheduled Caste category Dealerships. Therefore, the minimum qualifying mark to be obtained in this case is 33. However, the petitioner and Smt.D.Kamalamma, who were the only candidates, interviewed for the location secured far lesser marks (21 and 19 marks) than the required qualifying mark of 33. Hence, no candidate was found to be suitable for award of the Dealership and the location has once again been re-advertised under the same Reservation Category. It is relevant to mention that the petitioner failed to produce any document in support of her financial capacity and was therefore, not awarded any marks under this parameter."

4. Heard learned counsel for the petitioner and learned Standing Counsel for the respondents.

5. Learned counsel for the petitioner contended that the petitioner is entitled for exemption under two categories i.e. capability to provide land and infrastructure facilities; and capability to provide finance. When the marks allowed to these two categories are excluded, the marks remained are 40 and out of 40, she secured 21 which are more than 50% and thus, she is eligible to be appointed as a dealer.

Whereas, learned Standing Counsel for the respondents contended that the exemption to the Scheduled Caste candidates is only with regard to capability to provide land and infrastructure facilities and there is no exemption with regard to capability to provide finance and therefore, the marks secured by the petitioner are less than 50% and thus, the action of the respondents in not selecting the petitioner is justified. He refers Clauses 11 and 16 of the guidelines issued by the Indian Oil Corporation Limited with regard to selection of petrol, diesel retail outlet dealers. Much emphasis has been laid on Clauses 11 and 16 of the said guidelines and they read as follows:

11. SCHEME OF FINANCIAL ASSISTANCE TO SC/ST CATEGORY DEALERSHIPS UNDER 'CORPUS FUND' SCHEME:

Financial assistance will be given to persons belonging to Scheduled Castes and Scheduled Tribes on awarded of dealerships by IOC as under:

a. In respect of locations reserved for SC/ST categories, IOC will make available the ready Retail outlets with all basic facilities at its own cost. Therefore, the Applicants belonging to SC/ST categories applying against locations covered under 'Corpus Fund Scheme' are not expected to offer land and infrastructure.

b. IOC will also provide adequate working capital loan for a full operation cycle of the operation of the Dealerships. But the working capital as well as 11% per annum interest thereon will be recovered in 100 equal monthly instalments from the 13th month of commissioning of the Dealership.

c. The allottees will have to pay a Licence Fee to IOC as applicable from time to time.

16.INTERVIEWS:

Selection will be made from amongst the eligible candidates after interview by a committee comprising of 3 IOC officials.

16.1 NORMS FOR EVALUATING THE CANDIDATES:

16.1.1 Each candidate (individuals and partners of a partnership firm) during the interview will be assessed by the Selection Committee broadly under the following parameters:

(I) RETAIL OUTLET:

a. Capability to provide land and

infrastructure/facilities 35 marks.

b. Capability to provide finance 25 marks

c. Educational qualifications 15 marks

d. Capability to generate business 10 marks

e. Age 4 marks

f. Experience 4 marks

g. Business ability / acumen 5 marks

h. Personality 2 marks

6. It is explicit from the guidelines that what is exempted to the Scheduled Caste candidates is only capability to provide land and infrastructure facilities. With regard to the capability to provide finance, there is no exemption, in which case the petitioner has to get minimum qualifying marks of 33. Admittedly, the petitioner secured only 21 marks, which are far below the minimum qualifying marks. Thus, the action of the respondents in not selecting the petitioner cannot be found fault. Therefore, the writ petition is devoid of merits and is liable to be dismissed.

7. Accordingly, the writ petition is dismissed. No costs.

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B.SESHASAYANA REDDY, J.

Dated: 2nd September, 2005.

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